

# Prosecution Seminar

Roger Williams University  
Justice System Training  
and Research Institute

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# Purpose of the Seminar

This seminar is to serve as a primer for new prosecution officers, and as a refresher for officers and supervisors in the area.

# The Presenters

- Malena Lopez Mora, Esq.
  - Special Assistant Attorney General
- John C. Malloy, Esq.
  - Special Assistant Attorney General
  - West Warwick Police Dept. Captain (Ret.)

# Areas to be Covered

- District Court
- Process for Felony Screening
- RI Family Court
- RITT

DISTRICT COURT

# Topics

- Special Arraignments
- Arraignments and Re-Arraignments
- Bail
- Bail & Probation Violations
- Pre-Trials
- Trials
- Sentence Enhancements
- E-Filing
- APRA Considerations

# Special Arraignments

- Defendant has a right to be brought before a magistrate without unnecessary delay.
- To that end, Justices of the Peace, or Bail Commissioners (BC's), are able to conduct special arraignments at any time that the court is closed.
- BC's come at regular intervals if there are prisoners (\$50), but may be called in overnight hours if requested (\$200).

# Special Arraignments

- Since the arraignment can happen at any time, there should be officers trained in the process available on all shifts
- BC's phone numbers should be kept in an accessible location at all times.



# Special Arraignments

- Presentation of Charges
  - Not Guilty Plea enters
- Bail Set
  - BC will use the same criteria for setting bail as a District Court Judge.
  - BC fee assessed – This is not bail, but a fee paid to the BC.

# Special Arraignment Packet

- Complaint
- Arrest report or warrant
- Criminal history
- Appearance forms
- NCO (domestic OR non-domestic)
- If a violator, 32(f) or 46(g) paperwork
- If hold is anticipated, writ of habeas corpus and mittimus.

A sample packet found in Exhibit B

# NCO's at Special Arraignment

- Often, persons who are being committed to the ACI do not have an NCO issued at the special arraignment. This becomes an issue when the person calls the victim from the ACI and there is no NCO in effect.
- Please have any officer/detective request an NCO at all special arraignments involving a personal crime, whether it be domestic or not (Use Form for Domestic)

# Summons

- A District Court Summons may be issued to an arrestee for a non-domestic misdemeanor.
- This summons is done in lieu of a special arraignment.
- District Court made forms for traffic summons.
- A sample summons is found at Exhibit H.

# Hospital Arraignments

- If a person is charged with an offense and will be in the hospital for more than a day, arraigning at the hospital may be the logical choice.
- The BC will accompany you to the hospital, and, if the defendant is held, custody may be turned over to the Sheriff's Department.

# Arraignments and Re-Arraignments

If a person is released with a summons, (s)he is given a court date to appear for arraignment before the district court. Similarly, a person who has appeared at a special arraignment will be re-arraigned, that is, (s)he will be presented before the district court for initial plea and bail again.

# Arraignments: Lock-Ups

If a person is held after arrest and brought to the courthouse by the arresting agency, they are brought to the sheriff's lock-up.

In that event, two things need to be done: 1) a fax must be sent to the cell block before the prisoner is brought there, and, 2) the paperwork must be submitted to the clerk's office prior to 9 a.m. (for overnight lock-ups).

# Arraignments and Re-Arraignments

- Similar to Special Arraignment, this is a presentation of a defendant for initial charging.
- The Court may take a plea at arraignment in misdemeanors, but cannot for felonies.
- Bail is set for felonies and not guilty pleas on misdemeanors.



# Arraignments and Re-Arraignments

- The Court will have the complaint, and will explain the charges to the Defendant.
- You must be prepared to recite the facts of the case for the Court.
- A good rule highlight names and important facts. This aids in finding them when the judge asks.

# Arraignments and Re-Arraignments

- If there is any type of bail violation, you should be ready with an offer from the Dept. of Attorney General, or speak with the Probation Officer in the Court.
- You must be ready with a bail recommendation, conditions, and No Contact Order info.

# Arraignments

## Controlled Substances

- Judge Lafazia issued an order in early 2019 that requires police prosecutors to inquire with the Attorney General's Office regarding the AG's stance on bail in a controlled substances case. In short, the Court does not want to hold someone without bail on a delivery charge that will probably be dropped to a simple possession.

# Special Considerations for Non-US Citizens

When a non-US national is arrested, the arrestee has the right to have their consulate notified, and, in some cases, notification to the consulate is mandatory

See Exhibit I for notification paperwork and rights

# Bail Violators

- Standard
  - When a person is placed on bail, they pledge to “keep the peace and be of good behavior.” A violation may be found if, *to the reasonable satisfaction of the court*, that they have not done so.

# Probation Violators

- Likewise, when a person is placed on Probation, they pledge to “keep the peace and be of good behavior.” A violation may be found if, *to the reasonable satisfaction of the court*, that they have not done so.

# Violators

- Before going to the arraignment or doing a special arraignment, the prosecuting officer must examine the defendant's record to see if (s)he is in violation of bail or any sentence.
- In the event that the Defendant is in violation, the probation department and/or AG's office must be notified.

# Violators – Special Arraignment

- In the event that the person is to be arraigned before a BC, the Department of Attorney General must be notified through BCI.
- BCI gives the number of the on-call AG, who will provide an email address.
- The AG receives the paperwork, and emails a signed violation to you to present to the BC.



# Probation Violations

- At arraignment, the probation department will present a complaint for violation of probation (32(f)).
- Violators will often plea to both the new charge and the probation violation rather than face being held for a hearing and getting a heavier sentence.

# Bail Violators

- Similarly, a 46(g) violation will be presented for a bail violation. You have the responsibility to prepare this document, they are available in the courtrooms.
- This has the same standard as a probation violation.
- See Sample 46(g) and 32(f) at Exhibit F.

# No Contact Order

- In Domestic Cases, you are required to request an NCO pending resolution of the case or an order to vacate the NCO by the Court.
- Whether or not there is a place to put them, write the DOB's of both the defendant and the victim somewhere on the NCO

# Bail

The purpose of bail is not pre-adjudication punishment, rather, it is to ensure that the defendant will appear at the appointed time.

Bail must be conditions that are the least restrictive to assure the defendant's appearance in court and the safety of the community.

# Bail – Persons Posting

- Bail will first be applied to any fines or costs that are part of the case.
- The person posting bail is entitled to have it returned. If bail is posted at the PD, you should get a photo ID from the person posting.
- If the person refuses to provide ID, the money will go to the defendant.

# Bail Considerations

- Ties to community
- Employment
- Financial resources
- Family Background
- Education
- Criminal History
- Prior instances of failing to appear for court dates.
- Any other information that would indicate whether the defendant will voluntarily appear in court.

# Types of Bail

- Personal Recognizance (PR): a promise to appear. Failure to appear may, theoretically, result in the person having to pay the court the amount set.
- Surety Bail: An amount set, 10% of which is required to be deposited to the court for release. A pledge of property can be used in lieu of depositing cash
- Cash Bail: A monetary amount set by the court that must be deposited, in full, for release. It is rarely granted.

# Bail Amounts

- For Petty Misdemeanors punishable up to six months/\$500 fine, the baseline is \$500 PR
- For Misdemeanors with a punishment up to \$1000, the baseline is \$1000 PR
- For Felonies with 5 years/\$5000 fine, the baseline is \$5000 Surety or PR
- Capitol offenses are hold without bail (HWOB)



# Arguments for High Bail

- History of non-appearance
- Out of state resident
- Likelihood of conviction
- Danger to the Community
- Prior Criminal Record

If any of these are present, you may argue for higher bail.

# Hold Without Bail Offenses

- Some offenses are not bailable, and the person will be ordered held.
- These are all capital offenses, as well as some drug offenses that are not capital. Further, the use of a weapon in a new offense by someone already convicted of using a weapon in a previous offense, or any person already convicted of an offense that is punishable by life in prison is non-bailable.

# Conditions of Bail

When placed on bail, a person released may be given special conditions that, if violated, are *bail violations, not immediately arrestable criminal offenses*. A report must be prepared stating the facts of the case, then a 46(g) is prepared and signed by an AG. The 46(g) is then signed by a judge and acts as a warrant for the person's arrest.

# Bail Conditions

- No Driving – usually after previous DWI.
- Supervised Bail
- Substance abuse screening, counseling, and other services through pre-trial services.
- Home Confinement
- Waivers of extradition
- Curfew
- Waiver of Fourth Amendment rights
- NCO with victim or property
- No Internet Access in Child Porn cases

# Bail Violations

No Contact: Unlike a No Contact Order for domestic cases, an order of no contact with a victim or premises is a bail condition, and must be brought as such. It is not arrestable in and of itself without a warrant.

# Forms

Some conditions of bail have their own forms that must be completed:

- Waiver of 4<sup>th</sup> amendment rights
- Waiver of extradition
- Permission to leave the state

See Bail forms at Exhibit K

# Plea

In the event that the Defendant is willing to enter a plea of guilty or nolo contendere, you should be ready with an offer. This will be done by examining their prior history, current sentences, and possible violations.

# Offers – Suspended License

- 1<sup>st</sup> offense (civil) - \$250 fine & Court Costs
- 2<sup>nd</sup> offense (civil)- \$350 Fine & Court Costs
- 3<sup>rd</sup> offense - \$500 Fine & Court Costs

Default Judgment may enter in Civil Cases



# Offers – Suspended License

- Considerations for 31-11-18.1 Cases
  - Suspensions for:
    - DUI
    - Chemical Test Refusal
    - Operation involving death or Manslaughter
    - Three Violations/Colin Foote Suspensions (no jail)
  - \$500 and 10 days (20 Home Confinement) for 1<sup>st</sup> offense.
  - \$500 and Six Month Minimum for 2<sup>nd</sup> offense within five years.

# Offers – Suspended License

- Stay Date: If a person can get his license reinstated, a six week stay date may issue for dismissal of case, or down to lesser charge (3<sup>rd</sup> becomes 2<sup>nd</sup>).
- As noted, having the number (and dates) of previous violations on the complaint streamlines the process.

# Offers

- No Priors: Filing
- Probation
- Suspended Sentence (year and a year)
- Alcohol/drug counseling
- NCO's
- Restitution

# Convictions

- Any Guilty Plea
- Jail Sentence
- Suspended Sentence
- Any fine
- Any deferred sentence

# Not Convictions

- Filing
- Probation
- Community Service
- Contribution to Victim's of Crime Fund

# Types of Pleas

- Guilty – This is a *conviction* regardless of what the court imposes as a sentence.
- Nolo – The defendant admits responsibility. Whether this is a conviction depends on the sentence.
- Alford Plea – the defendant admits that the state could prove the case, but does not admit responsibility. Again, conviction is controlled by the sentence.

# Entering a Plea

- Defendant enters Guilty or Nolo.
- You recite facts, and state agreement to the offer.
- The Defendant must complete a Plea Form.

Plea form is found in Exhibit L.

# Discovery

- After the arraignment, a discovery motion is to be expected. Most of these motions are overbroad, asking for irrelevant information.
- Start by sending a copy of the arrest report, witness statements, and other related paperwork.
- For further inquiries by defense counsel, questions and decisions should be left to your solicitor.
- See Exhibit E for a sample discovery motion.



# District & RITT Discovery - DUI

- When a Defendant appears in RITT, counsel may ask for full discovery.
- Only the refusal packet needs to be provided in RITT.
- Other items are to be provided through District or Superior Court Discovery.

# Pre-Trial

- This is an opportunity for the Solicitor to assess the facts of the case and make another offer to the defendant.
- If the Defendant is going to be represented by the PD or a private attorney, (s)he is usually represented at this point.
- Most cases are disposed of at this point whether by plea or by dismissal (see 48(a) at Exhibit D).

# Trial

- Trials are handled by the solicitor, but you may (and probably) will be responsible for subpoenaing witnesses, maintaining evidence, and assisting with the trial.
- Be familiar with the facts of the case, as your assistance is generally relied upon greatly by the solicitor.

# Other Duties

- Arrest Warrants: As part of your job as a prosecution officer, you will be charged with bringing pending arrest warrants to courts to be signed.
- Arrest warrants include a sworn affidavit prepared by another person. Be familiar with the facts, but do not guess if you do not know.
- A sample arrest warrant is in Exhibit B

# Other Duties

- Search Warrants: Similarly, you may be charged with having search warrants signed.
- A search warrant includes an affidavit and a complaint. You will sign as the complainant, but the affidavit should already be complete.
- A sample is found in Exhibit M

# Expungements

- Law passed in 2017 that allows for up to five (5) misdemeanors to be expunged.
- Expunging is not destroying, it is sealing and removing from active files.
- Expungement law found at Exhibit P.

# Fugitive from Justice

- If a person is wanted in another state, and the pursuing agency *confirms* that they will extradite, the person is charged as a fugitive from justice.
- This charge is on a separate complaint form, and, if the person waives an extradition hearing, a separate form is completed.
- A sample of these forms are found at Exhibit C.

# Status Inquiry

- If a person is suspected of being in the US illegally, you can perform a check of the person via RILETS.
- If a foreign national is arrested, you must notify that person's embassy or consulate.
- The process for checking status and for contacting consulates is found at Exhibit I.



# Sentence Enhancements

- DWI – A person's blood alcohol content determines the charge. A listing of the enhancements are found in Exhibit J.

# Sentence Enhancements

- Hate Crimes – If a crime involves a motive of race, religion, etc., the sentence can be enhanced as a hate crime. Notice must be given to the Defendant of the enhancement sought. The Hate crime Statute is found at Exhibit N.

# Sentence Enhancements

- Domestic Violence
- 2<sup>nd</sup> violation: Imprisoned for not less than ten (10) days nor more than one (1) year.
- 3<sup>rd</sup> and subsequent violations: Imprisoned for not less than one year and not more than ten years; jail sentence cannot be waived or suspended.
- A previous Domestic Disorderly Conduct cannot be used a conviction as a basis for 3<sup>rd</sup> offense.

# E-Filing Issues

- Tyler Technologies partnered with RI in e-filing in the civil side in 2014. RITT soon followed, and District will be going live in the near (?) future.
- Although Departments are not using e-file yet, the court is using the Tyler based system, which allows for greater accessibility for the public.

# E-Filing Issues

- ZIP Codes – Tyler's program will duplicate a persons with the same name and DOB but with a different ZIP Code.
- The Court records civil OSL's as (CVL) but IMC has no corresponding code – use (V) (civil charges cannot be expunged).
- Always lead with the highest charge – if you lead with a misdemeanor and follow with a felony, Tyler assigns the case to a misdemeanor track.

# E-Filing Issues

- Offenses that have additional penalties for subsequent offenses will have “1<sup>st</sup>” “2<sup>nd</sup>” etc. in IMC. This will carry to the Tyler system. You should examine Banner before completing the complaint, as changing the complaint will be difficult.
- The same “AR” number can be used for civil and criminal, but separate complaints must be filed.

# E-Filing Issues

- Joinder – the same AR can be used for arrests that are related by incident OR type.
- Different AR's must be used for separate offenses not related in time or type.
- Put another way - If it would no make sense to have one trial for all of the charges, use separate AR's.

# E-Filing Issues

Informants – if a person will work with SIU/SOG/Narcotics, filing a complaint should be avoided. The matter will show up on the public portal. Complaints can be filed at a later date.



# Redaction

- Because the e-filing system can be accessed by the public, certain information must be redacted from the criminal complaint.
- In addition to the original criminal complaint, a redacted copy of the of the compliant must be filed.

# Redaction – what is public?

- ARPA requires the following information to be released:
  - Full name of the arrested adult;
  - Home address of the arrested adult, unless doing so would identify a crime victim;
  - Year of birth of the arrested adult;
  - Charge or charges;

# Redaction - what is public?

- Date of the arrest;
- Time of the arrest;
- Gender of the arrested adult;
- Race of the arrested adult;
- Name of the arresting officer unless doing so would identify an undercover officer.

# What should be redacted.

- Month and day of arrestee DOB.
- Driver's license number.
- ANY victim information, including the arrestee address if shared with the victim.

See Redacted Complaints in Exhibit O

# Redaction – How?

- As in any APRA release, the redacted material should be done in black. This ensures that the text is blocked, and that the recipient is aware that information was removed.

# APRA Considerations

- While there is a full seminar from the Dept. of Attorney General on this subject and most departments leave this to their records department, police prosecutors should be familiar with some areas of the Access to Public Records Act.

# APRA

Open records law in Rhode Island derives from the state's Access to Public Records Act ("APRA"). R.I. Gen. Laws §§ 38-2-1, et seq. A copy of the Act is found at Exhibit O.

# APRA

Records for criminal law enforcement are generally excluded from disclosure to the extent that disclosure could

- 1) interfere with criminal investigations or enforcement proceedings,
- 2) would deprive a person of a fair trial or impartial proceedings,
- 3) could reasonably be expected to disclose a confidential source,



# APRA

- 4) would disclose investigation or prosecution techniques or procedures,
- 5) could endanger the life or safety of an individual, or
- 6) would constitute an unreasonable invasion of personal privacy.

# APRA – Invasion of Privacy

The US Supreme Court, in weighing the public's interest against privacy rights, has said that the intent of disclosure is for citizens' to know “what their government is up to.” Disclosure of information on private citizens that reveals little or nothing about the agency's conduct does not fall within that purpose.

- See, generally, U.S. Dep't of Justice v. Reporters Comm. For Freedom of the Press, 489 U.S. 749 (1989).

# Felony Screenings

# Purpose

When a person is charged with a felony, the arraignment is held in the district court. A Not Guilty plea enters on behalf of the defendant, and the court sets bail.

The path which a felony takes is found at Exhibit A.

# Felony Control Date

The matter is set down for a felony control date, prior to which the Attorney General's office either presents an information or sends the case back for misdemeanor charging, or dismissal.

With the new e-filing system, a case will automatically dismiss at the control date if no action has been taken.

# Packet

- Report
- Narrative
- List of Evidence
- List of Witnesses
- Sample packet found in Exhibit A

# Screening Packet for Domestic Crimes

- Domestic Violence crimes have unique obstacles for prosecutors given the length of time from arrest to hearing and the unwillingness of victims. Accordingly, special attention needs to be focused on preparing a domestic screening packet.
- See checklist at Exhibit A

# Predicate Offenses

- Some crimes are felonies due to the number of previous offenses.
- As noted, it is a good idea to put the number and dates of previous offenses on the criminal complaint.
- Exhibit A has a list of crimes that are felonies due to predicate offenses.



Family Court

See Exhibit G for  
Juvenile Paperwork

# Paths of a Case

- Officer's Discretion
- Juvenile Hearing Board
- Diversion
- Family Court
- Waiver to Superior Court

# Officer's Discretion

Just as with adults, in many minor offenses, an officer may choose not to arrest a juvenile offender. Instead, parents are notified, and punishment is entrusted to them.

# Juvenile Hearing Board

Created pursuant to RI General Law and City/Town Ordinance, the JHB hears minor first time offenses. The juvenile must admit the offense, or the case is referred to the Family Court for Adjudication. The JHB can order fines up to \$50, restitution in any amount, community service, and/or essays or letters of apology.

# Diversion

When a first offense case is sent to Family Court, it is reviewed by Probation. The probation department may choose to divert the case, ordering administrative penalties ranging from a verbal warning to participation in a educational program.

# Family Court Process

Arrest – No more than 6 hours

Release or emergency hearing

Petition filed – Disseminated

Petition returned to Dept. 4-6 weeks later

Arraignment – Preliminary Orders

Pretrial

Trial

Adjudication

Review Dates

# Duty Judge

- Two types;
  - On Duty Judge during court hours.
  - After Hours Duty Judge (phone list for every month)

**DO NOT CONFUSE THE TWO**

Call the after hours judge only if court is closed.

# Emergency Hearing

In the event that the offense is grave or the juvenile has a lengthy record, the juvenile can be held for an emergency hearing.

If the juvenile is to be held for more than six hours, you must call a duty judge for a hold.



# Emergency Hearing

- The Clerk must be notified of an emergency hearing.
- The Clerk will notify all parties (AG, PD, Probation, RITSY, DCYF).

See Exhibit G for a list of crimes upon which a hold should be sought.

# Six Hour Rule

A juvenile cannot be held in a secured facility for more than six hours. At that point, the juvenile must be released, taken to court, or transferred to a juvenile facility.

A juvenile cannot be placed in a secured facility for a status offense.

# Range of Remedies

- NFT: No Further Trouble
- Curfew
- Community Service
- Probation
- Suspended Sentence
- Home Confinement
- RITSY

# Family Court Terms

Status Offense: Any offense that is based solely on the age of the offender and would not be criminal if committed by an adult. Truancy, possession of cigarettes, and failing to listen to parents are examples.

Juveniles cannot be placed in a secured facility for a status offense.

# Family Court Terms

Misdemeanor = Wayward

Felony = Delinquent

Defendant = Respondent

Complainant = Petitioner

Complaint = Petition

# Family Court Terms

NFT = No Further Trouble

NNA = Need Not Appear

Guilty = Admit Sufficient Facts

TCP = Temporary Community Placement

VOP = Violation of Probation

# Waiver

Discretionary Waiver (no more mandatory waiver):

- 1) Requested by AG
- 2) Any age
- 3) Heinous Offense or based upon the child's record or treatment history.

STANDARD:

- 1) Probable cause
- 2) Waiver is necessary to the interests of society or the protection of the public necessitates the waiver of jurisdiction.

# After Waiver

Any offense committed with, or subsequent to, the waived offense must be heard in adult court. Further, any matter pending before the Court when the juvenile is waived must be re-arraigned in District Court.



# Certification

Once certified, the sentence is an adult sentence, and the juvenile is assigned an adult probation officer, and is subject to district/superior court procedures until the end of his sentence.

# Certification

- Any juvenile charged with an offense that would be a felony if by an adult can be certified and receives an adult sentence. However, the juvenile will serve his sentence in RITSY until his 19<sup>th</sup> birthday.

# Rhode Island Traffic Tribunal

# Jurisdiction

- Traffic offenses not heard in Municipal Court (if the city/town has one)
- Third Offenses within 18 months
- Fourth Offense within 18 months (Colin Foote Law)
- Appeals from RITT, Municipal Courts, and DMV
- Up to one ounce of Marijuana
- Certain DEM Violations

# Colin Foote Act

- Four Distinct Violations in 18 months
- Enhanced penalties
  - Up to \$1000 fine
  - 60 hours driver retraining
  - 60 hours community service
  - Up to one year suspension or two year revocation of licence

# Process

- Citation Issued
- Transmitted to RITT – via E-File
- Court Arraignment
- Guilty of Not Guilty – not “guilty with explanation
- Disposition or Trial Date
- Trial

# Citation Issued

It is incumbent upon the prosecuting officer to provide court dates to officers prior to the ticket being written.

Refusal Cases and Marijuana Cases,  
Court date within two weeks of offense.

# Arraignment at RITT

- Courtroom 2C for municipal, 2D for RISP
- Although court starts at 8:30 a.m., the judges do not take the bench until 9 a.m.
- Get there early. You can call your cases and speak with offenders to streamline the process: Does the offender have insurance; registration? Has the tint been removed? Attorneys will be looking to speak with you as well.



# Arraignment, continued

If the matter is before the court for arraignment, it is not the time for a discussion. The judges have 100+ cases, and want to move along. Be prepared with trial dates in the event that there is a not guilty plea.

# Hardship License

- Only available to those motorists charged with a first / second DUI offense or a first offense refusal.
- Must install an ignition interlock device to be eligible for a hardship license.
- Magistrate must issue an order after the motorist demonstrates a “need” for the license.
- Limited to no more than 12 hours per day.

# Hardship License - Need

A 2016 update has expanded beyond employment purposes. Hardship licenses will also be granted to those who can prove they need a hardship license to drive to necessary medical appointments, therapy appointments, job training, school, or any other valid reason approved in advance by the judge.

# Hardship License - Discretion

- Shall Issue: 1<sup>st</sup> offense, finding of need, and interlock.
- May Issue:
  - Traffic crash involved;
  - Reckless or eluding w/in 10 years; or
  - Greater than 0.15% BAC.

Hardship Statute found at Exhibit P

# Discretion at RITT Arraignment

Prosecuting officers are given wide discretion and can dismiss (26(a)) the matters before the court. Check with your department for the breadth of your discretion, and be able to justify dismissals before the court.

A sample 26(a) is found at Exhibit D.

# Dismissal in Refusal Cases

- In accordance with Rule 26(a), any dismissal in a refusal case must be submitted in writing to the Department of Attorney General prior to the Hearing
- When a deal is made by the Solicitor to plea to the DWI and Refusal, the AG still has the right to appear and object to the dismissal.

# Dismissals

- New requirement that dismissals (as well as voids) be faxed.
- Entering 26(a) at arraignment can still be done, but should be avoided given the new rule.

# Youthful Offenders and Community Service

- In order to avoid high insurance, RITT allows for youthful offenders to complete community service for first-offense, minor violations.
- A date is generally given to re-arraign the youth, and, upon completion of the Community Service, the matter is dismissed.
- Magistrate Noonan does not allow CS, the dismissal must come in a 26(a).



# Status Dates

With DUI/Refusals, the matter goes before two courts – RITT and District. As the matter is often resolved in District Court (less time with suspended license), there is no need for a trial in RITT.

The matter often is dismissed with a plea in district court. In those cases, the attorney may seek a status date at which the matter is dismissed.

# Trial

- In the event that there is a trial, it is *your* responsibility to notify all witnesses and officers.
- In the event that witnesses other than police officers are to testify, you are required to have a solicitor present to ask questions. The citing officer (who is a witness at the trial) cannot examine other witnesses.

# Marijuana

- Up to one ounce (1 oz.)
- Court date within two (2) weeks, fine must be paid within 30 days of violation or it doubles.
- Evidence
  - Right now, the requirements are in flux, however, as a rule of thumb, you will need 1) the substance (or photo) , 2) a field test sheet, and a photo of the field test.
- First and second offense within 18 months is RITT violation, third goes to District Court.
- No violation prior to April 1, 2013 counts toward timeframe.

# Appeals & Motions to Vacate

- RITT appeals must be filed within 10 days of adjudication. They are heard before a three judge panel.
- Motion to vacate must be filed within one year, but can, with permission of the court, be filed later. The offender must give a reason for vacating, such as a missed court date. These motions are approved liberally.

QUESTIONS ?